

Aug. 29, 07

Clerk,

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This Documents are a part of  
the motion for leave to Appeal  
Re: Refco Inc. Et al

Michelle Y. Coe  
10911 SW 22th Ln  
Miami, FL 33170  
305-726-7381

**From:** Karen\_Goldstein@nysb.uscourts.gov

**To:** michelleycoe@aol.com

**Cc:** stephanie.mai@bingham.com

**Subject:** Re: Request to Reconsider Motion to Quash

**Date:** Mon, 20 Aug 2007 11:09 am

**Attachments:** Order\_Denying\_Coe's\_Reconsideration\_Motion\_(08-10-07).pdf (15K)

Hi Ms. Coe,

Judge Drain considered your Motion and docketed an Order denying the request on August 10, 2007. For your convenience, attached is the Order that was docketed on August 10, 2007 on the Refco docket (Docket No. 5706).

Thanks,  
Karen

(See attached file: Order Denying Coe's Reconsideration Motion (08-10-07).pdf)

Karen Goldstein

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Law Clerk to Honorable Robert D. Drain  
U.S. Bankruptcy Court, S.D.N.Y.  
One Bowling Green  
New York, New York, 10004  
(212) 668-2870 Ext. 3652

michelleycoe@aol.  
com

08/20/2007 11:00  
AM

To  
Karen\_Goldstein@nysb.uscourts.gov  
cc  
Subject  
Request to Reconsider Motion to  
Quash

Hi Karen:

What is the current status on my Request to Reconsider Motion to Quash hereto attached?

Thank you,  
Michelle Y. Coe  
10911 SW 224th Lane  
Miami, Florida 33170  
305-726-7381

-----Original Message-----

**From:** Karen\_Goldstein@nysb.uscourts.gov  
**To:** Mail, Stephanie W. <Stephanie.Mai@bingham.com>  
**Cc:** michelleycoe@aol.com  
**Sent:** Tue, 31 Jul 2007 1:45 pm  
**Subject:** Motion to Lift the Stay

Hi All,

Please note that Judge Drain's decision regarding Ms. Coe's motion to lift the automatic stay has been entered on the Refco docket (Docket No. 5634).

Thanks,  
Karen

Karen Goldstein

Law Clerk to Honorable Robert D. Drain  
U.S. Bankruptcy Court, S.D.N.Y.  
One Bowling Green  
New York, New York, 10004  
(212) 668-2870 Ext. 3652

"Mai, Stephanie  
W."  
<Stephanie.Mai@bi  
ngham.com>

07/09/2007 01:21  
PM

michelleevans@aol.com

To

cc

Karen\_Goldstein@usdb.uscourts.gov  
Subject  
RE: Refco - Request for a Decision  
on Claimant's Motion to Lift the  
Automatic Stay [Dkt. No. 5490]

Michelle:

We have not yet received a response from you to the below email sent to you on Friday, July 6, 2007. If we do not hear from you before 5:00 pm today (NY time), we will maintain July 17, 2007 at 10:00 am (NY time) as the hearing date on your motion.

Thank you.

Stephanie Mai  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
phone: (212) 705-7671  
fax: (212) 702-3675

From: Mai, Stephanie W.  
Sent: Friday, July 06, 2007 5:18 PM  
To: 'michelleevans@aol.com'  
Subject: RE: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Michelle:

Thank you for acknowledging your receipt of our objection.

We would appreciate your response regarding the scheduling of a hearing on your motion. As noted in my earlier emails below, we are prepared to (A) go forward on your motion at the hearing on July 17, 2007, which is the only date available that would allow for your compliance with current Local Rule 4001-1(a), (B) if it is your preference, and subject to the Court's amenability, move forward on your motion based solely on the submissions and without oral argument, or (C) consent to a reasonable extension to an upcoming scheduled omnibus hearing date so long as it is understood that the automatic stay under section 362 shall remain in effect until such time as the Court rules on your motion.

We are amenable to any of the above options. Please let us know which option (A, B or C) you prefer. If we do not receive a response from you regarding your preference of (A), (B) or (C) above, we will maintain July 17, 2007 at 10:00 am (NY time) as the hearing date on your motion.

Please be aware that these correspondence are intended solely for purposes of addressing the scheduling of a hearing on your motion. We reserve all rights to address the merits of your motion and any other allegations in an appropriate forum and manner.

We look forward to your response.

Stephanie Mai  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
phone: (212) 705-7671  
fax: (212) 702-3675

From: [maimichelle@aol.com](mailto:maimichelle@aol.com) (mailto:maimichelle@aol.com)  
Sent: Friday, July 06, 2007 12:15 PM  
To: Mai, Stephanie W.  
Subject: Re: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Dear Stephanie Mai:

I have just received a FEDX inclusive of your Objection to the Request of Michelle Y. Coe for a Decision on Motion to Lift the Automatic Stay. This is an obvious attempt to confuse the court. The court administration is well aware of the problems with docketing and mail delivery. This is why a decision was requested. The Lift Stay Motion is predicated on your clients misappropriation of my Trade Secret. It would be in the best interest of your client to settle this case. An offer of 7 million is on the table this will also cover the on going infringement. In addition, I never received the omnibus motion disallowing the claim so that I could object to it. As you well know "any reasonable man" would object to having their claim disallowed. I will be addressing your objection with the court immediately.

Sincerely,  
Michelle Y. Coe  
10911 S.W. 224th Lane  
Miami, Florida 33170  
305-726-7381

-----Original Message-----

From: Mai, Stephanie W. <[Stephanie.Mai@Bingham.com](mailto:Stephanie.Mai@Bingham.com)>  
To: [maimichelle@aol.com](mailto:maimichelle@aol.com)  
Cc: Karen E. Lintz <[karen.lintz@uscourts.gov](mailto:karen.lintz@uscourts.gov)>; Sunny Singh <[sunny.singh@nysb.uscourts.gov](mailto:sunny.singh@nysb.uscourts.gov)>; Mark Blanton <[Mark.Blanton@uscourts.gov](mailto:Mark.Blanton@uscourts.gov)>  
Sent: Fri, 6 Jul 2007 10:16 am  
Subject: RE: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Michelle:

If it is your preference, and subject to the Court's amenability, we would be content to have the matter determined on the pleadings alone without oral argument.

Thank you.

Stephanie Mai  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
phone: (212) 705-7671  
fax: (212) 702-3675

From: [maimichelle@aol.com](mailto:maimichelle@aol.com) (mailto:maimichelle@aol.com)  
Sent: Friday, July 06, 2007 6:56 AM  
To: Mai, Stephanie W.  
Cc: Karen E. Lintz <[karen.lintz@uscourts.gov](mailto:karen.lintz@uscourts.gov)>; Sunny Singh <[sunny.singh@nysb.uscourts.gov](mailto:sunny.singh@nysb.uscourts.gov)>; Mark Blanton <[Mark.Blanton@uscourts.gov](mailto:Mark.Blanton@uscourts.gov)>  
Subject: Re: Refco - Request for a Decision on Claimant's Motion to Lift

the Automatic Stay [Dkt. No. 5490]

Dear Stephanie:

You are referring to a former local rule 44a that contemplates a hearing will commence in 30 days. However, Local Rule 4001-(a) shall seek a return date for the motion that is not more than 30 days. It appears on its face that the court should have ruled on this motion 30 days from the date that it was filed.

Pursuant to rule 9075-1, The Judge may request that the hearing may be held on submission without an oral argument. I will inform you of my position shortly.

Michelle Y. Coe  
10911 S.W. 224th Lane  
Miami, Florida 33170  
305-726-7381

-----Original Message-----

From: Mai, Stephanie W. <Stephanie.Mai@bingham.com>  
To: Michelle Y. Coe  
Cc: Michelle Y. Coe <MichelleY.Coe@uscourts.gov>; Sunny Singh <Sunny.Singh@uscourts.gov>  
Sent: Thu, 5 Jul 2007 6:28 pm  
Subject: RE: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Michelle:

Thank you for your response.

Local Rule 4001-1(a) of the Local Rules for the Bankruptcy Court for the Southern District of New York requires a party moving for relief from the automatic stay under section 362 of the Bankruptcy Code to obtain a hearing date for the motion that is not more than 30 days from the date the motion is filed. We are not in a position to unilaterally waive the timing requirement under Local Rule 4001-1(a). We would consent to a reasonable extension to an upcoming scheduled omnibus hearing date so long as it is understood that the automatic stay under section 362 shall remain in effect until such time as the Court rules on your motion.

I look forward to your response.

Stephanie Mai  
Bingham McCutchen LLP  
399 Park Avenue  
New York, NY 10022  
phone: (212) 705-7671  
fax: (212) 702-3675

From: Michelle Y. Coe <MichelleY.Coe@aol.com> [mailto:MichelleY.Coe@aol.com]  
Sent: Thursday, July 05, 2007 5:21 PM  
To: Mai, Stephanie W.  
Subject: Re: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Dear Stephanie Mai:

This date will not work for me. I understand that there will be hearings in both August and September. I will contact you back with a more appropriate date.

Thank you,  
Michelle  
Y. Coe  
10911 S.  
W 224th Lane  
Miami, Florida 33170  
305-726-7381

-----Original Message-----

From: Mai, Stephanie W. <Stephanie.Mai@bingham.com>

To: michel\_evr@aol.com

Sent: Thu, 5 Jul 2007 3:32 pm

Subject: Refco - Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490]

Michelle:

Following up from my voicemail to you today (left at your number, 305-726-7381) regarding the scheduling of a hearing on your Request for a Decision on Claimant's Motion to Lift the Automatic Stay [Dkt. No. 5490] (the "Motion"), we plan on scheduling a hearing on the Motion for 10:00 am (New York time) on Tuesday, July 17, 2007, unless you let me know that this date does not work for you.

Please contact me with any questions. Thank you.

Stephanie Mai

Bingham McCutchen LLP

399 Park Avenue

New York, NY 10022

phone: (212) 705-7671

fax: (212) 702-3675

The information in this transmittal is privileged and confidential and is intended only for the recipient(s) listed above. If you are neither the intended recipient(s) nor a person responsible for the delivery of this transmittal to the intended recipient(s), you are hereby notified that any unauthorized distribution or copying of this transmittal is prohibited. If you have received this transmittal in error, please notify me immediately at (212) 705-7700.

=====

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AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.[attachment "Request to Reconsider Motion to Quash.doc" deleted by Karen Goldstein/NYSB/02/USCOURTS]

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
In re	:	Chapter 11 Case
	:	No. 05-60006 (RDD)
REFCO INC., <u>et al.</u> ,	:	(Jointly Administered)
	:	
Debtors.	:	
-----	X	

**ORDER DENYING MICHELLE Y. COE'S MOTION TO (A) "QUASH" THE  
ORDER DENYING MICHELLE Y. COE'S MOTION TO LIFT THE  
AUTOMATIC STAY PURSUANT TO 11 U.S.C. SECTION 362(d)(1) AND TO (B)  
RECONSIDER THE MOTION TO LIFT THE AUTOMATIC STAY PURSUANT  
TO FEDERAL RULE OF CIVIL PROCEDURE 60**

On July 31, 2007, this Court entered an order (the "July Order") (Docket No. 5634) denying Michelle Y. Coe's ("Coe") motion to lift the automatic stay for cause (the "Lift Stay Motion") pursuant to section 362(d)(1) of the Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "Bankruptcy Code"), to permit Coe to proceed with litigation commenced prepetition against Refco, Inc. ("Refco"), among others, regarding an alleged violation of a trade secret. The basis for the July Order was that Coe's claim against Refco had previously been disallowed, with no grounds for reconsideration of the orders disallowing the claim having been established, thereby rendering the Lift Stay Motion moot.<sup>1</sup>

On August 7, 2007, Coe, appearing pro se, filed a motion (the "Motion") (Docket No. 5680) seeking (A) to "quash" the July Order, and (B) requesting the Court to reconsider the July Order pursuant to Federal Rule of Civil Procedure 60, incorporated by Federal Rule of Bankruptcy Procedure 9024. The Court has treated the Motion as also

<sup>1</sup> Coe did not schedule her original lift stay motion so as to be heard within 30 days, as required by Local Bankruptcy Rule 4001-1(a). Before a hearing was scheduled, her underlying claim was disallowed.



seeking an amendment of the July Order pursuant to Federal Rule of Civil Procedure 59(e), incorporated by Federal Rule of Bankruptcy Procedure 9023.

The Motion relies upon allegations that were -- and evidence within Coe's control that was or could have been -- previously submitted to the Court before it entered the July Order. The Court has previously considered and rejected Coe's rationale for failing to object to Refco's objections to her claims.

Now, therefore, for the reasons stated herein, the Motion is denied.

Dated: August 10, 2007  
New York, New York

/s/ Robert D. Drain  
Honorable Robert D. Drain  
United States Bankruptcy Judge